



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 27, 1992

Ms. Laura Portwood
Senior Assistant City Attorney
City of Houston, Legal Department
P. O. Box 1562
Houston, Texas 77251-1562

OR92-282

Dear Ms. Portwood:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15769.

The Employee Relations Division of the City of Houston Personnel Department (the "city") has received a request for information relating to a pending personnel investigation. Specifically, the requestor seeks the investigative file prepared by the city finance and administration division concerning the requestor's two Equal Employment Opportunity Commission ("EEOC") complaints. You claim that the requested information is excepted from required public disclosure by section 3(a)(3) of the Open Records Act and that portions of it are excepted by sections 3(a)(2) and 3(a)(11).

Previous open records decisions issued by this office resolve your request. Section 3(a)(3) excepts

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

Section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information clearly relevant to that litigation. Open Records Decision No. 551 (1990). The pendency of a complaint before the EEOC indicates a substantial likelihood of litigation and is therefore sufficient to satisfy section 3(a)(3). Open Records Decision No. 386 (1983).

You advise us that the requested information relates to an investigation of the requestor's two EEOC complaints, one of which is still pending. Accordingly, we conclude that litigation may be reasonably anticipated. Having examined the documents submitted to us for review, we further conclude that they relate to the anticipated litigation and may be withheld from required public disclosure under section 3(a)(3) of the Open Records Act. Please note that this ruling applies only until the resolution of the matter and to the documents at issue here. As we resolve this matter under section 3(a)(3), we need not address the applicability of sections 3(a)(2) and 3(a)(11) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-282.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/GCK/lmm

Ref.: ID# 15769
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cc: Ms. Mattie L. Lewis
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